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EFSEC
P.O. Box 43172
Olympia, WA 98504-3172

Attention:
Allen Fiksdal
EFSEC Manager

Re: Wild Horse Wind Power Project, Application No. 2004-01, submittal of Applicant's Proposed Findings of Fact, Conclusions of Law & Order and Proposed Site Certification Agreement

This is a transmittal letter for the submittal of the Applicant's Proposed Findings of Fact, Conclusions of Law & Order and Applicant's Proposed Site Certification Agreement for which I would like to provide some explanatory comments.

The Applicant's Proposed Site Certification Agreement incorporates the original draft Site Certification Agreement, drafted by EFSEC staff on March 17, 2005, with a few modifications. Most of the language in the original document remains intact. This document has received review by the remaining parties (CFE, CTED and ECDG of Kittitas County), who do not raise any objections thereto. CFE has provided input and changes which were incorporated into the document. Most of the modifications were clarifications and were not substantive, and have been reviewed with EFSEC staff. The following are changes made to the EFSEC's staff draft which might be considered substantive:

1. Article III. K. 2., which has been changed to read as follows: A change in ownership of the Project shall be pursuant to EFSEC rules and procedures. The Certificate Holder shall also comply with the requirements of Section 10.1 of Attachment 4 to this Agreement. Provided however, pursuant to the terms of this Agreement and WAC 463-36-100, EFSEC hereby pre-approves and permits the Certificate Holder to transfer ownership, without further action by EFSEC, to Puget Sound Energy effective immediately upon notice provided to EFSEC by the Transferor (Applicant) and Transferee (PSE) pursuant to WAC 463-36-100 (3).

This language pre-approves the transfer of the project ownership to PSE according to EFSEC transfer criteria in WAC 463-36-100 based on information fully disclosed and reviewed as part of the Application process. We are seeking this pre-approval because PSE desires to complete the purchase transaction and transfer ownership as soon as possible in order to preserve the potential ability to commence construction this summer.

The required information contemplated by WAC 463-36-100 as necessary for consideration of a transfer of ownership has already been provided to the EFSEC and is in the record. This information was provided in the prefiled testimony of Andrew Young, testimony of Brian Lenz during the public comment hearing and the information and conditions stipulated to between the Applicant and Kittitas County contained in the Development Agreement. Specifically, the Development Agreement includes a pre-approval for transfer to PSE, and the SCA does not require bonding or insurance, so long

as, an entity such as PSE owns the project. Kittitas County and all remaining parties have no objection to a transfer to PSE as contemplated in the Applicant's Proposed Site Certification Agreement, and PSE meets EFSEC financial criteria in WAC 463-36-100(1).

On this basis the Applicant submits that EFSEC has the discretion to approve the transfer of ownership to PSE as provided in the Applicant's Proposed Site Certification Agreement.

2. Article VI. A. 1, relating to the filing of a Notice of Intent to be covered by a General Permit for Stormwater Discharges with Industrial Activities has been deleted. The Applicant does not believe that such a Notice is necessary because the Wild Horse Wind Power Project does not meet the definition of an "industrial activity". Applicant has related this to EFSEC staff and suggested that they might check with DOE for confirmation.

The Applicant's Proposed Findings of Fact, Conclusions of Law & Order has incorporated stock language used in the past by EFSEC. This document also has received review by the remaining parties (CFE, CTED and ECDG of Kittitas County), who do not raise any objections thereto

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